

1 **UNITED STATES DISTRICT COURT**  
2 **DISTRICT OF NEVADA**

3 MICHELLE C. ZEITER, individually and as  
4 Special Administrator for ESTATE OF  
5 MICHAEL BUCHNA, and JENNIFER C.  
6 BEAM, individually and as Special  
7 Administrator for ESTATE OF MICHAEL  
8 BUCHNA,

9 **Plaintiffs**

10 v.

11 WALMART INC. and WAL-MART  
12 STORES, INC.,

13 **Defendants**

Case No.: 2:21-cv-00061-APG-DJA

**Order**

[ECF Nos. 40, 47, 76]

14 This case involves an alleged slip and fall at a Walmart store. The decedent, Michael  
15 Buchna, fell to the ground, hit his head, and later died. Buchna's daughters, Michelle Zeiter and  
16 Jennifer Beam, as special administrators of his estate, pursue claims against Walmart for  
17 negligence; negligent hiring, training, supervision, and retention; and wrongful death.

18 The case was previously assigned to Judge Boulware, who held a hearing on several  
19 pending motions on February 7, 2023. At that hearing, Judge Boulware made oral rulings.  
20 Judge Boulware recused himself the next day and he vacated his oral rulings based on his  
21 recusal. ECF No. 102. I have been assigned the case.

22 Having reviewed the record, I adopt Judge Boulware's oral rulings as follows:

23 1. The plaintiffs' motion to strike the answer **(ECF No. 40) is DENIED without**  
**prejudice** to refile at the close of discovery.

2. The defendants' motion for summary judgment **(ECF No. 76) is DENIED without**  
**prejudice.**

1           3. The parties are to meet and confer regarding whether any other production is required  
2 in relation to GPS data from the decedent's truck or phone.

3           4. By February 21, 2023, the defendants shall prepare and send a letter to the plaintiffs  
4 identifying each employee who was working at the Walmart store at the time of the accident,  
5 their job title and duties, and contact information.

6           5. Within 30 days after the close of discovery, the plaintiffs may file a motion for  
7 spoliation sanctions. To preserve the parties' and the court's resources, summary judgment  
8 motions will be filed only after I have resolved the spoliation motion (if one is filed) because the  
9 scope of any sanction may impact summary judgment. If the plaintiffs do not file a motion for  
10 spoliation sanctions, summary judgment motions may be filed within 60 days after close of  
11 discovery.

12           I FURTHER ORDER that the defendants' motion to extend time **(ECF No. 47)** is  
13 **DENIED as moot.**

14           DATED this 14th day of February, 2023.



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ANDREW P. GORDON  
UNITED STATES DISTRICT JUDGE